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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/028,574
Filing Date: December 20, 2001
Appellant(s): SINGH, KENNETH SUGRIM

Anthony M. Del Zoppo, III
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 13, 2007 appealing from the Office action mailed June 12, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,878,222	Harrison	3-1999
6,601,103	Goldschmidt Iki et al.	7-2003
6,282,713	Kitsukawa et al.	8-2001

6,400,407	Zigmond et al.	6-2002
6,601,074	Liebenow	7-2003
5,880,789	Inaba	3-1999
5,945,988	Williams et al.	8-1999
2002/0053078	Holtz et al.	5-2002
2003/0040962	Lewis	2-2003

Definition of “high-level programming language.” Microsoft Computer Dictionary, Third Edition. Microsoft Press, Microsoft Corporation. 1997. p. 1-3.

Definition of “script.” Microsoft Computer Dictionary, Third Edition. Microsoft Press, Microsoft Corporation. 1997. p. 1-3.

3/6/2001 definition of “scripting language.” Dictionary.com.
<http://dictionary.reference.com/browse/scripting%20language>. 3/12/2008. p. 1.

1/30/1995 definition of “interpreter.” Dictionary.com.
<http://dictionary.reference.com/browse/interpreter>. 3/13/2008. p. 1, 2.

1993 definition (6) of “shell.” IEEE 100, The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition. Standards Information Network, IEEE Press. 2000. p. 1-3.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims **1, 3, 8-11, 15-18, 22, 23, 26, 31** are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison.

Referring to claim 1, Harrison discloses a system extending unattended control capabilities for a video receiver, comprising:

- a shell for executing scripts controlling demodulation of broadcast programming (the examiner notes that a processor processes data and instructions stored in a main memory. These data and instructions provide communication between a user and an operating system, thus performing the operation of a shell)(col. 3, l. 6-13, 21-31 & Fig. 1); and
- a memory containing at least one script including a sequence of commands for demodulating selected broadcast programming (the examiner notes that the personal profile stores trigger data and an action to be performed in response to a recognized trigger. Since a set of actions are performed in recognition of a trigger, the profile actions perform the operation of scripts), wherein the at least one script is executable by the shell to select broadcast programming for demodulation and display or recording from among one or more concurrently airing programs each matching at least one of a plurality of user-specified descriptive criteria, wherein said at least one script employs associated previously-defined user priorities or conditions to select between conflicting matches or routing options (col. 3, l. 53-67; col. 4, l. 1-11, 43-67; col. 5, l. 11-40; & Figs. 3A-3B).

Referring to claim 3, Harrison discloses the system as set forth in claim 1, wherein the shell is an interactive program employed to create and run the at least one script (the examiner notes that the main memory 103 stores data and instructions for the processor 102 and other

devices coupled to the bus 101)(col. 3, l. 6-13, 21-31, 53-67; col. 4, l. 1-11, 43-57; col. 5, l. 11-40; & Fig. 1).

Referring to claims **11** and **18**, Harrison discloses the system/method as set forth in claims 8 and 15, respectively, wherein the at least one script, when executed by the shell, controls operation of the video receiver to cause the selected broadcast programming to be demodulated and transmitted to a recording device (col. 4, l. 54-56 & Fig. 3A).

Referring to claim **8**, Harrison discloses a video receiver comprising:

- an input 200 that receives broadcast programming (Fig. 2); and
- a scripting system that extends unattended control capabilities for the video receiver (Fig. 3A), the scripting system comprising:
 - o a shell (the examiner notes that a processor processes data and instructions stored in a main memory. These data and instructions provide communication between a user and an operating system, thus performing the operation of a shell)(col. 3, l. 6-13, 21-31 & Fig. 1), including,
 - a script manager that creates executable scripts that control demodulation of broadcast programming and a script executor that executes the created executable scripts (col. 4, l. 43-50 & col. 5, l. 8-40); and
 - o a memory that stores scripts created by the shell wherein the shell executes at least one stored script (the examiner notes that the personal profile stores trigger data and an action to be performed in response to a recognized trigger. Since a set of actions are performed in recognition of a trigger, the profile

actions perform the operation of scripts) and wherein the executing script selects broadcast programming for demodulation from among one or more concurrently airing programs each matching at least one of a plurality of user-specified descriptive criteria, wherein said at least one script employs associated previously-defined user priorities or conditions to select between conflicting matches or routing options (col. 3, l. 53-67; col. 4, l. 1-11, 43-67; col. 5, l. 11-40; & Figs. 3A-3B).

Referring to claims **10** and **17**, Harrison discloses the system/method as set forth in claims 8 and 15, respectively, wherein the at least one script, when executed by the shell, controls operation of the video receiver to cause a sequence of programs broadcast during separate contiguous time periods on different channels to be demodulated and displayed by the video receiver (the examiner notes that in time, different programs on different channels will be displayed in accordance with the triggering and priority data stored in the profile)(col. 3, l. 65-67; col. 4, l. 54-56; col. 5, l. 31-34; & col. 6, l. 6-15).

Referring to claim **15**, Harrison discloses a method for extending unattended control capabilities for a video receiver comprising using an interactive program of the video receiver that creates and executes scripts to execute a script that selects a broadcast program to demodulate (the examiner notes that a processor processes data and instructions stored in a main memory. These data and instructions provide communication between a user and an operating system to create and modify executable actions in the profile unit 260)(col. 3, l. 6-13, 21-31; col. 4, l. 47-54; col. 5, l. 8-40; & Fig. 1), wherein the script is executed by the shell to select broadcast programming for demodulation from among one or more concurrently airing programs

each matching at least one of a plurality of user-specified descriptive criteria, wherein said at least one script employs associated previously-defined user priorities or conditions to select between conflicting matches or routing options (col. 3, l. 53-67; col. 4, l. 1-11, 43-67; col. 5, l. 11-40; & Figs. 3A-3B).

Referring to claim 16, Harrison discloses the method as set forth in claim 15, further comprising identifying the selected broadcast programming within the at least one script by one of:

- one or more channels on which the selected broadcast programming is to be broadcast and one or more time periods during which the selected broadcast programming is to be broadcast;
- a title of the selected broadcast programming; and
- keywords describing the selected broadcast programming (col. 4, l. 47-50).

The USPTO considers the appellant's "one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim 22, Harrison discloses a datastream stored on computer readable medium for use with a video receiver (Fig. 3A), wherein the datastream includes one or more computer readable fields for a broadcast programming stream including selected broadcast programming (channel and trigger fields) and at least one script including a sequence of commands for causing the video receiver to demodulate the selected broadcast programming for display or recording (action field), wherein the at least one script is executable by a shell running within the video receiver (see citations and examiner's notes with respect to claim 1 above)(col. 4, l. 54-57 & Fig. 4a).

Referring to claim 26, Harrison discloses the video receiver as set forth in claim 8, wherein the scripting system further includes a script manager that schedules the script for execution (the examiner notes that the script of Harrison executes when the triggering text is found in a monitored channel. Therefore, the examiner interprets the triggering text to be a script manager that schedules the script for execution, as claimed)(col. 5, l. 35-40 & Fig. 3A).

Referring to claim 31, Harrison discloses the datastream as set forth in claim 22, wherein the shell enters an idle state when a script end time is reached and remains in the idle state until another script is selected for execution (the examiner notes that when trigger text is detected, the current channel is automatically pre-empted if the priority of the new trigger is greater. After the pre-empting has completed and the user has received the information on the preempting channel, the user can switch back to the pre-empted channel or choose to continue to display the preempting channel. The examiner interprets this as the script having completed, since the user now has control again. If a trigger with a greater priority is encountered again, the channel will again be pre-empted)(col. 5, l. 12-34 & Fig. 4A).

2. Claims 2, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Goldschmidt Iki et al.

Referring to claims 2 and 9, Harrison discloses the system as set forth in claims 1 and 8, respectively. Harrison further discloses that the analyzing units 250 can analyze closed-captioning data or URL web page data for predefined items of interest to a user in order to select a program for demodulation from among one or more concurrently airing programs (col. 3, l. 53-60; col. 4, l. 23-39; & col. 6, l. 23-31). Harrison does not disclose that the one or more

concurrently airing programs are identified by searching a program guide received with broadcast programs from an external source, wherein the program guide describes program content of the broadcast programs and is periodically updated via a subsequent reception of broadcast programs. Goldschmidt Iki et al. discloses using predetermined content criteria stored in a user profile in a set-top box, such as keywords, to search programming content, such as closed caption information or an electronic program guide (EPG), for content that corresponds with an individual user's preferences or personality (col. 3, l. 18-38, 52-56; col. 4, l. 1-26, 51-60; col. 5, l. 33-36; & Figs. 2-6). A user-defined response is executed when predetermined content criteria is found (col. 3, l. 35-38; col. 5, l. 33-36, 57-53). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify an analyzing unit 250 of Harrison to include searching for keywords in an EPG, such as that taught by Goldschmidt Iki et al. in order to provide greater flexibility in searching.

3. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Kitsukawa et al.

Referring to claims 4 and 5, Harrison discloses the system as set forth in claim 1. Harrison does not disclose that the at least one script, when executed by the shell, controls operation of the video receiver to cause broadcast of commercials for a particular product to be demodulated and transmitted to a recording device and to cause broadcast of only commercials that provide sales information as private data along with broadcast program content. Kitsukawa et al. discloses an integrated receiver/decoder (IRD) with a stored coupon mode that stores coupons for particular products advertised in broadcast programs or commercials (col. 10, l. 37-

67; col. 11, l. 1, 35-38; & Fig. 8-10). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the triggered actions of Harrison to include storing coupons, such as that taught by Kitsukawa et al. in order to provide potential customers with product information and incentive to purchase (Kitsukawa et al. col. 1, l. 52-55).

4. Claims **6, 7, 13, 14, 20, 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Zigmond et al.

Referring to claims **6, 7, 13, 14, 20, and 21**, Harrison discloses the system as set forth in claims 1, 8 and 15. Harrison does not disclose receiving a script together with a broadcast programming stream including selected broadcast programming or receiving a script from an external source separate from a broadcast programming stream including selected broadcast programming. Zigmond et al. discloses receiving a logical address link either in a broadcast video signal (col. 6, l. 56-61; col. 8, l. 66-67; col. 9, l. 19-32; & col. 10, l. 16-22) or from a different data supplier (col. 9, l. 62-67 & col. 10, l. 1-3, 13-15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Harrison to receive instruction data either in broadcast programming or from a different data supplier, such as that taught by Zigmond et al. in order to provide an intelligent mechanism for communicating instruction data (col. 2, l. 28-29).

5. Claims **12, 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Liebenow.

Referring to claims **12** and **19**, Harrison discloses the system/method as set forth in claims **11** and **18**, respectively. Harrison does not disclose a method of, prior to causing the selected broadcast programming to be demodulated and transmitted to a recording device, checking for previous demodulation and transmission of the selected broadcast programming to the recording device, wherein execution of the at least one script is terminated if the selected broadcast programming was previously demodulated and transmitted to the recording device. Liebenow discloses a method of determining whether or not a program has been previously recorded, and if it has, inhibiting the recording of the program (col. 5, l. 1-4, 25-38, 58-67 & col. 6, l. 1-3). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Harrison to determine whether or not a program has been previously recorded, and inhibit the recording of a program if it has, such as that taught by Liebenow in order to allow a user to employ a record function without having to worry about inadvertently recording duplicate programs (col. 1, l. 29-31).

6. Claim **23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Inaba.

Referring to claim **23**, Harrison discloses the system as set forth in claim **1**. Harrison further discloses a sequence of text-based instructions (script) that are executed (by a shell) in response to a trigger (Fig. 3A). Harrison does not disclose that the shell executes the script that is stored in the memory when a user manually initiates execution of the script by selecting a script execute option. Inaba discloses storing a script in the memory of a TV receiving set. A script decoder displays on the TV screen a symbol mark (e.g., the letter “i”) in order to notify the

viewer about a supplementary program. The script decoder starts executing the script to display supplementary data for the program when the viewer keys in a command (col. 3, l. 66-67 & col. 4, l. 1-8). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the automatic script execution of Harrison to include executing the script upon user command, such as that taught by Inaba in order to provide greater user control over a television receiving device.

7. Claims **24, 25, 28, 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Williams et al.

Referring to claim **24**, Harrison discloses the system as set forth in claim 1. Harrison does not disclose that the shell automatically periodically executes the script to check future programming. Williams et al. discloses an entertainment system 100 that stores user profile information for each of the users of system 100 (col. 2, l. 65-67 & col. 3, l. 1-2). The user profile also includes storage for user-defined requests for specific titles of shows/movies or keywords. Given a particular search request, the system controller 104 searches future programming information each time it receives updated programming information and prompts the user with the found program information (col. 11, l. 31-44 & col. 12, l. 6-10). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the scripts in the user profile of Harrison to include periodically searching future programming information for user-defined keywords, such as that taught by Williams et al. in order to prevent a user from missing programming that matches their interests.

Referring to claim 25, Harrison discloses the system as set forth in claim 1. Harrison does not disclose that the executing script selects broadcast programming based on an identity of a viewer, wherein the identity of the viewer is a condition to automatically choose content appropriate for the viewer. Williams et al. discloses determining which of a plurality of users is currently using an entertainment system. After determining which user is using the system, the system controller dynamically configures system configuration settings of the system in accordance with user preference information found in the user profile corresponding to the identified user, and offers programming/entertainment suggestions to enhance the user's enjoyment of the system (col. 3, l. 4-16 & col. 5, l. 8-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the system of Harrison to include determining which user is using the system prior to accessing the data in the user profile, such as that taught by Williams et al. in order to better personalize a television viewing experience.

Referring to claim 28, Harrison discloses the video receiver as set forth in claim 1. Harrison does not disclose that the script ranks alternative programs for display or recording by automatically extrapolating from a viewing history of the subscriber's recently viewed programs. Williams et al. discloses monitoring a user and configuring a user's profile based on the user's viewing history (col. 6, l. 33-56 & col. 7, l. 52-67). Williams et al. further discloses presenting the user with programming suggestions based on the user profile (col. 8, l. 12-19 & col. 11, l. 1-23). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profile of Harrison to include presenting a user with programming

suggestions based on a user's viewing history, such as that taught by Williams et al. in order to better personalize a television viewing experience.

Referring to claim **30**, Harrison discloses the method as set forth in claim 15. Harrison does not disclose that the executing script automatically records a program designated to be displayed instead of displaying the program when the user is concurrently viewing a different program. Williams et al. discloses presenting a user with programming suggestions based on the user profile (col. 8, l. 12-19 & Col. 11, l. 1-23). Williams et al. further discloses that if the user elects to forego the suggested programming, system controller may then prompt the user with the option of recording one of the suggested programs. If the user elects to record one of the program suggestions, system controller configures system 100 to record the program selection to any one of the available recording media (col. 11, l. 45-51). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Harrison to include prompting the user with the option of recording suggesting programs, such as that taught by Williams et al. in order to prevent a viewer from missing a program they're interested in.

8. Claim **27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Holtz et al.

Referring to claim **27**, Harrison discloses the video receiver as set forth in claim 11, wherein the at least one script, when executed by the shell, controls operation of the video receiver to cause the selected broadcast programming to be demodulated and transmitted to a recording device (col. 4, l. 54-56 & Fig. 3A). Harrison does not disclose that the script includes instructions for selectively skipping commercials while recording the selected broadcast

programming. Holtz et al. discloses broadcasting live television programming to a record device (p. 10, paragraph 126 & p. 14, paragraph 164). The broadcaster links video commercials to specific shows (p. 19, paragraphs 224, 225). Users who are not interested in viewing the video commercial can exercise the option of skipping the commercial feed through a profile (p. 25, paragraph 307). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profile of Harrison to include an option for skipping commercial feeds, such as that taught by Holtz et al. in order to better accommodate users not interested in viewing commercials (p. 25, paragraph 307).

9. Claim **29** is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Lewis.

Referring to claim **29**, Harrison discloses the method as set forth in claim 15. Harrison does not disclose using the executing script for controlling tradeoffs between recording time, picture quality, and available storage space. Lewis discloses providing users the options for digital compression and encoding based on desired picture/sound quality versus storage capacity (the examiner notes that available recording time is directly related to picture/sound quality and storage capacity)(p. 15, paragraph 156). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profile of Harrison to include user options for digital compression and encoding based on desired picture/sound quality versus storage capacity, such as that taught by Lewis in order to provide greater user control over a television recording device.

(10) Response to Argument

Argument A: The Rejection of Claims 1, 3, 8, 10, 11, 15-18, 22, 26, and 31 under 35

U.S.C. 102(b)

Regarding claims 1, 3, 8, 10, 11, 15-18, 22, 26, and 31, the appellant argues that Harrison does not teach every element as set forth in the subject claims. The examiner respectfully disagrees.

Claims 1, 3, 8, 10, 11, 15-18, 22, 23, 26, AND 31

Regarding claims 1, 3, 8, 10, 11, 15-18, 22, 23, 26, and 31, the appellant argues that Harrison does not teach or suggest a shell and a memory containing at least one script, wherein the at least one script is executed by the shell to select broadcast programming for demodulation from among one or more concurrently airing programs each matching at least one of a plurality of user-specified descriptive criteria. The examiner respectfully disagrees. The appellant specifically argues that Harrison is directed towards a system that uses a SPSU for selecting a television signal to display or record from amongst a plurality of television signals that have already been demodulated at the tuning units 200.

Harrison discloses a multimedia computer 100 including a signal processing and selection unit (SPSU) 104 for monitoring and selecting audio/video signals received by the computer system 100 from a signal broadcast source 110 (col. 3, l. 4-13 & Fig. 1). The SPSU includes a plurality of tuning units 200 for receiving audio and video signals (television signals)(col. 3, l. 34-36 & Fig. 2). As noted by the appellant, the tuning units 200 receive and

demodulate video signals from a transmission source, such as a television broadcasting station. Each tuning unit 200 selects one channel out of several being broadcast and received for display on the display unit (col. 4, l. 12-17). Harrison further discloses a profile unit 260 that stores profile information that includes a prioritized list of predefined channels and channel data that specify items of interest to be monitored by the tuning units 200 (col. 3, l. 65-67 & col. 4, l. 1). Within the profile unit, the user can program and reprogram the channel information of the channel selections to be monitored, the priority numbers of the channels to be monitored, the triggering text for each channel being monitored, and the action to take once a trigger item is detected (col. 4, l. 65-67; col. 5, l. 8-11, 35-40; & Figs. 3A, 3B). That is, the user programs which channels out of the many channels received from the broadcast source are to be tuned and monitored for a user-programmed trigger. For example, in Figure 3A, the user has programmed the tuners to tune channels CNN, ESPN, CBS, and CSPAN in order to monitor the channel data for its corresponding user-programmed trigger (Fig. 3A). In Figure 3B, the user has programmed the tuners to tune channels ESPN-1, ESPN-2, and Prime Sports (Fig. 3B). As noted by the appellant, the priority arbitrating, trigger monitoring, and action executing steps within the profile occur after tuning a desired program; however, the examiner notes that the tuning and demodulating are selected in response to user-specified channel information within the profile. Since the video signals are tuned out of the several being broadcast in response to user-specified channel information in the profile unit, the examiner interprets this as a script controlling demodulation of broadcast programming, as currently claimed. Figures 3A, 3B illustrate that the script includes "a sequence of commands for demodulating selected broadcast programming," as currently claimed. The user-specified channels CNN, ESPN, CBS, and CSPAN of Fig. 3A and

ESPN-1, ESPN-2, and Prime Sports of Fig. 3B illustrate that “the at least one script is executable by the shell to select broadcast programming for demodulation from among one or more concurrently airing programs each matching at least one of a plurality of user-specified descriptive criteria,” as currently claimed. Harrison further discloses utilizing the user-defined triggers, actions, and priorities associated with the channels to determine which program to display (col. 4, l. 3-11, 43-57 & col. 5, l. 22-28). This meets the limitation of “wherein said at least one script employs associated previously-defined user priorities or conditions to select between conflicting matches or routing options,” as currently claimed.

The examiner further notes that this interpretation of Harrison with regard to demodulation of the broadcast signals is consistent with Appellant’s claims. Dependent claims 4, 5, and 27 describe distinguishing commercials and commercial information from the rest of the broadcast channel information. Appellant’s specification describes a simple form of script that selects a channel or program to be demodulated (p. 9, lines 7-11 of Appellant’s specification). This is analogous to the user-defined channel information of Harrison indicating which channels to tune (Figs. 3A, 3B). Appellant’s specification also discloses specially handling commercials by buffering content and using closed captioning information associated with the broadcast programming or utilizing image detection for specific content within broadcast programming, so that commercials for a particular product can be recorded (p. 11, l. 24 & p. 12, l. 1-7 of Appellant’s specification). This is analogous to the closed-caption monitoring (col. 4, l. 23-39) and image monitoring (col. 3, l. 59-60; col. 6, l. 32-40; & Fig. 4c) of Harrison, in which the content has been demodulated and is buffered and text and/or image analyzed (Fig. 2).

Further regarding claim **1, 3, 8, 10, 11, 15-18, 22, 23, 26, and 31**, the appellant argues that the user specified text in the user profile of Harrison is not executable. The examiner respectfully disagrees. The appellant specifically argues that the textual commands within the profile 260 are indicia identifying types of action to be performed, but that the indicia itself is not executable. The examiner notes; however, that scripts are sequences of commands composed of textual indicia, because scripting languages are high-level programming languages that must be interpreted or compiled into binary machine language to be executed (see definition of “high-level programming language” from Microsoft Computer Dictionary, Third Edition)(see definitions of “scripting language” and “interpreter” from <http://www.dictionary.com>).

Harrison discloses allowing a user to utilize an alphanumeric input device (col. 3, l. 25-26) to program and reprogram textual data within a profile unit including channel information defining channels to be tuned and monitored, trigger text defining textual content to be searched within the monitored channel, action text defining the actions to take when trigger text is found in a monitored channel, and priority text indicating which channel is most important if triggers are found within two or more of the monitored channels simultaneously (col. 5, l. 9-40, 63-65). The analyzing unit 250 uses this list of data to determine which channels to display to the user. For example, the user may define a list of text of interest, such as monitoring the business channel, so that anytime the word “Intel” is detected, the tuner automatically pre-empts the current channel being displayed (col. 4, l. 43-57). In Figures 3A and 3B, the user specified channel text commands the tuners to tune certain channels. The trigger text commands the analyzing unit to search for particular triggers. The action text commands the arbitration unit to perform the designated actions. The priority text commands that if a decision needs to be made

between channels, certain channels take priority over others (Figs. 3A, 3B). Thus, the examiner maintains that Harrison discloses “executing scripts,” as currently claimed.

The appellant further argues that the specified text commands in the profile of Harrison is not a script and the software retrieving the text commands and executing them is not a shell. The examiner respectfully disagrees. In the Advisory Action mailed 8/24/2007 and previous Office Actions, the examiner has stated that Appellant appears to have defined a “script” as “text-based sequences of instructions or commands for controlling operation of the video receiver” and a “shell” as being “employed to create and run scripts” (p. 8, lines 3-5). The appellant argues that the examiner is misconstruing this passage and that this is language indicating examples of what the shell may run. That is, Appellant argues that this passage indicates that the shell can create and run scripts and additionally can create and run text-based sequences of instructions, and additionally can create and run commands for controlling operation of the video receiver. The examiner first notes that, if interpreted this way, the “or” language of the passage would indicate that the shell may create and run only one of the examples. The examiner also notes that Appellant’s specification is replete with discussions of scripts monitoring channels for keywords or descriptive criteria. The specification indicates that the lexicon and associated syntax for the script language should be simple and taken from everyday terms with which the viewer is familiar (p. 13, lines 15-18 of Appellant’s specification). The examiner further notes that the title of Appellant’s invention is directed towards a script-based method (see title & Fig. 1). Nevertheless, even interpreting the passage in this fashion, the examiner notes that it is well-known within the prior art that a “shell” is a program that interprets sequences of text input as commands (see the year 2000 definition of “shell” in IEEE 100, The Authoritative Dictionary of

IEEE Standards Terms, Seventh Edition) and a “script” is a “program consisting of a set of instructions” (definition of “script” in Microsoft Computer Dictionary, Third Edition). Since Harrison discloses sequences of user-defined instructions to be executed, the examiner maintains that Harrison teaches “scripts” and “shells” as described by Appellant. As such, the examiner maintains that Harrison discloses “a shell for executing scripts,” “a memory containing at least one script including a sequence of commands,” wherein “the at least one script is executable by the shell to select broadcast programming for demodulation,” as currently claimed.

Argument B: The Rejection of Claims 2 and 9 under 35 U.S.C. 103(a)

Regarding claims 2 and 9, the appellant argues that the claims are allowable as being dependent from claims 1 and 8. The examiner respectfully disagrees for the reasons stated above regarding claims 1 and 8.

Argument C: The Rejection of Claims 4 and 5 under 35 U.S.C. 103(a)

Regarding claims 4 and 5, the appellant argues that the rejection of these claims should be withdrawn, because the combination of Harrison and Kitsukawa et al. does not teach or suggest all the claim limitations, and, thus, the Office has failed to establish a *prima facie* case of obviousness. The examiner respectfully disagrees.

Claim 5

Regarding claim 5, the appellant argues that Kitsukawa et al. does not teach or suggest controlling operation of the video receiver to cause broadcast only of commercials that provide

sales information as private data along with broadcast program content. The examiner respectfully disagrees. The appellant specifically argues that Kitsukawa et al. is silent regarding controlling operation of the IRD so that the IRD selectively broadcasts commercials to broadcasts only commercials that provide sales information as private data along with broadcast program content.

The examiner notes that claim 5 is a not an original claim. Support for the claim is found on p. 11, lines 18-24, which states that “[f]or broadcast programs including commercials, scripts may be programmed to record programs with special handling of commercials, such as skipping all commercials except those accompanied by sale information (e.g., electronic coupons) sent along as private data, either with the program content or via another communications channel” (p. 11, lines 18-24 of Appellant’s specification). As such, the examiner interprets recording only commercials accompanied by sale information as causing “broadcast only of commercials that provide sales information as private data with broadcast program content.” That is, the examiner has interpreted “broadcast” as being broadcast from the receiver to the recorder. Kitsukawa et al. discloses an integrated receiver/decoder (IRD) that provides coupon information along broadcasts of associated television programs (col. 10, l. 41-43). A user can select a stored coupon display mode, which results in the storing of the coupon information for presentation at a later time (col. 10, l. 61-67 & col. 11, l. 1). The coupon information for particular items is stored on a removable recording medium (col. 11, l. 35-38 & Fig. 8). Kitsukawa et al. also provides users the option of storing advertising information (col. 2, l. 18-34). By selecting a non-advertisement mode (col. 7, l. 1-2), advertising information is not displayed or stored (col. 7, l. 5-7, 41-45 & Fig. 4). Thus, Kitsukawa et al. allows a user to select a non-advertisement mode and

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a stored coupon mode, which allows the user to store only coupons. As such, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the triggered actions of Harrison to include storing only coupons, such as that taught by Kitsukawa et al. in order to provide potential customers with product information and incentive to purchase (Kitsukawa et al. col. 1, l. 52-55).

Claim 4

Regarding claim 4, the appellant argues that the claim is allowable as being dependent from claim 1. The examiner respectfully disagrees for the reasons stated above regarding claim 1.

Argument D: The Rejection of Claims 6, 7, 13, 14, 20, and 21 under 35 U.S.C. 103(a)

Regarding claims 6, 7, 13, 14, 20, and 21, the appellant argues that the claims are allowable as being dependent from claims 1, 8, and 15. The examiner respectfully disagrees for the reasons stated above regarding claims 1, 8, and 15.

Argument E: The Rejection of Claim 12 and 19 under 35 U.S.C. 103(a)

Regarding claims 12 and 19, the appellant argues that the claims are allowable as being dependent from claims 11 and 15. The examiner respectfully disagrees for the reasons stated above regarding claims 11 and 15.

Argument F: The Rejection of Claim 23 under 35 U.S.C. 103(a)

Regarding claim 23, the appellant argues that the claim is allowable as being dependent from claim 1. The examiner respectfully disagrees for the reasons stated above regarding claim 1.

Argument G: The Rejection of Claims 24, 25, 28, and 30 under 35 U.S.C. 103(a)

Regarding claims 24, 25, 28, and 30, the appellant argues that the claims are allowable as being dependent from claims 1 and 15. The examiner respectfully disagrees for the reasons stated above regarding claims 1 and 15.

Argument H: The Rejection of Claim 27 under 35 U.S.C. 103(a)

Regarding claim 27, the appellant argues that the claim is allowable as being dependent from claim 11. The examiner respectfully disagrees for the reasons stated above regarding claim 11.

Argument I: The Rejection of Claim 29 under 35 U.S.C. 103(a)

Regarding claim 29, the appellant argues that the claim is allowable as being dependent from claim 15. The examiner respectfully disagrees for the reasons stated above regarding claim 15.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Van Handel

/Michael Van Handel/

Examiner, Art Unit 2623

Conferees:

Chris Kelley

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2623

Scott Beliveau

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